

HOUSE BILL 1080

By McCormick

AN ACT to amend Tennessee Code Annotated, Title 67,
Chapter 6, relative to certain information
technology services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-6-102(81)(L), is amended by
adding the following at the end of the subdivision:

; provided, that the following services shall not be included in the sales price and
shall not be subject to tax under this chapter, whether or not the service is made
as an incident to the sale of tangible personal property or computer software or
as a part of the installation or maintenance services provided to a customer, or
whether or not any tangible personal property or computer software is transferred
in conjunction with the service:

(i) Hosting or processing services, including application, web site,
electronic mail, whether or not the taxpayer contracts with an outside hosting
service to provide the services;

(ii) Services performed by remote access or means, including helpdesk,
technical support, problem diagnostics, circumvention, operators, monitoring,
software consulting, configuration, installation, troubleshooting, and repair; and

(iii) Disaster recovery services for information technology;

SECTION 2. Tennessee Code Annotated, Section 67-6-102, is amended
by adding the following as a new, appropriately designated subdivision and by
redesignating the existing subdivisions accordingly:

() "Remote access or means" includes accessing or connecting a taxpayer's computer or server to a user's computer or server via the Internet, modem, telephone line, or any electronic method in order to perform a particular service on the user's computer, software, or server, regardless of whether the user or the user's server or software is located in this state or another state;

SECTION 3. Tennessee Code Annotated, Section 67-6-205(c)(4), is amended by adding the language "; except that repair services performed by remote access or means shall not be subject to the tax levied by this chapter;" at the end of the subdivision.

SECTION 4. Tennessee Code Annotated, Section 67-6-205(c)(6), is amended by adding the language "; except that the installing of computer software by remote access or means shall not be subject to the tax levied by this chapter;" at the end of the subdivision.

SECTION 5. Tennessee Code Annotated, Section 67-6-231(a), is amended by adding the following sentence at the end of the subsection:

The retail sale, lease, licensing or use of custom computer software developed for a private user located in another state shall not be subject to the tax levied by this chapter.

SECTION 6. Tennessee Code Annotated, Section 67-6-387, is amended by deleting the language "the fabrication of computer software by a person, or its direct employee," in the first sentence and by substituting instead the language "the fabrication or development of computer software by a person or business entity, or its employee, whether the employee is temporary, part-time, or full-time, its agent, or its contractor,".

SECTION 7. Tennessee Code Annotated, Section 67-6-387, is further amended by deleting the second and third sentences in their entirety.

SECTION 8. This act shall take effect upon becoming a law, the public welfare requiring it.